



**State of New Hampshire**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2982



**Randy and Caryl Parker**  
**PO Box 187**  
**Melvin Village, NH 03850**

**RE: Tax Map 28, Lot 38**  
**Tuftonboro, NH**

**ADMINISTRATIVE ORDER**  
**No. WD-02-24**

October 4, 2002

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Randy and Caryl Parker pursuant to RSA 483-B:5. This Administrative Order is effective on issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH.
2. Randy and Caryl Parker are individuals having a mailing address of PO Box 197, Melvin Village, NH, 03850.

**C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 483-B, the Comprehensive Shoreland Protection Act ("CSPA"), the Department of Environmental Services ("DES") regulates development activities in the protected shoreland zone established under the CSPA. Pursuant to RSA 483-B:17, the Commissioner of DES has adopted Env-Ws 1400 to implement this program.
2. Randy and Caryl Parker are the owners of a parcel of land located on Lake Winnepesaukee in Tuftonboro, New Hampshire, and more particularly described on Tuftonboro Tax Map 28 as Lot 38 ("the Property").
3. In 1999 DES issued Wetland Permit #1999-00073 ("the Permit") to Randy and Caryl Parker for the following: construction of a 6 foot-by-30 foot seasonal dock; a 450 square foot perched beach with a 1 foot wide retaining wall on the sides and back of the beach; excavation of 15 square feet of bank for the construction of a 3 foot-wide stepped access to the water; and a 1 foot-wide retaining wall and dredge of a 12 foot square area lakeward of the steps for safe access to Lake Winnepesaukee.
4. New Hampshire Code of Administrative Rules, Env-Ws 1405.04, specifies that the minimum setback for an accessory structure is 20 feet from the reference line.

5. Env-Ws 1405.03, specifies that accessory structures shall have a footprint no larger than 150 square feet.
6. The Wetlands file shows that during the permit review process, a conversation took place on May 5, 1999 between John St. John of the Wetlands Bureau and Mr. Parker's agent, Allen Folsom regarding the dry boat-storage structure proposed on the plan. The telephone conversation report indicates that Mr. St. John told Mr. Folsom that the proposed boat storage shed was outside of Wetlands Bureau jurisdiction and would require a variance from the Shoreland Program. The conversation report also states that a copy of the Shoreland Accessory Structures Fact Sheet was faxed to Mr. Folsom.
7. On June 8, 2001, DES personnel inspected the property to determine if the work had been completed in accordance with the wetlands permit. It was observed that a dry boat-storage building measuring 19'11" x 22'3" with an attached deck measuring 19'11" x 9'11" had been constructed within the setback requirements pursuant to RSA 483-B. The structure comprised an approximate total area of 643 square feet and was located approximately 9 feet from the Lake Winnepesaukee reference line.
8. On August 8, 2001, DES issued Letter of Deficiency #SP-2001-22 (the "LOD") to Mr. and Mrs. Randy Parker. The LOD requested that the Parker's submit a restoration plan within 30 days that described how the dry boat-storage building would be brought into compliance.
9. On September 11, 2001, DES personnel met with Randy Parker to discuss the LOD. Mr. Parker provided a copy of the building permit issued by the Town of Tuftonboro and some other documents relative to his wetland permit application. Mr. Parker made no indication that he intended to bring the structure into compliance with the CSPA.
10. DES has not received a proposed restoration plan from the Parker's or had any response from them since the meeting on September 11, 2001.
11. On August 15, 2002 a visual follow-up inspection was conducted which determined that the status of the dry boat-storage structure had not changed since the initial inspection conducted by DES.
12. The dry boat storage building is within the protected shoreland and therefore subject to RSA 483-B and Env-Ws 1400.

#### **D. DETERMINATION OF VIOLATIONS**

1. Randy and Caryl Parker have violated Env-Ws 1405.04 by constructing a structure within 20 feet of the Lake Winnepesaukee reference line without a variance.
2. Randy and Caryl Parker have violated Env-Ws 1405.03 by constructing an accessory structure which exceeds the 150 square foot limitation.
3. Randy and Caryl Parker have violated RSA 482-A:14(III), by failing to comply with the

following conditions of the Permit:

- (a) Condition #2 specifying that the seasonal dock, stepped access, and two retaining walls are to be the only structures on the water frontage; and
- (b) Condition #6 specifying that all activity shall be in accordance with the Shoreland Protection Act, RSA 483-B (see attached fact sheet).

#### **E. ORDER**

Based on the above findings, DES hereby orders Randy and Caryl Parker as follows:

1. **Within 30 days of the date of this Order** submit a construction sequence and plan for the relocation of the dry boathouse structure to a location 50 feet from the reference line of Lake Winnepesaukee.
2. Upon approval of the plan, and as conditioned by DES, execute the relocation of the structure by a date specified by DES.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Allyson Gourley  
DES Water Division  
6 Hazen Drive  
Concord, NH 03302  
Fax : (603) 271-6683  
e-mail : agourley@des.state.nh.us

#### **F. APPEAL**

Any person aggrieved by this Order may appeal this decision to the New Hampshire Water Council in accordance with RSA 483-B:14 and NH Administrative Rules Env-WC 200. Such appeal must be filed with the Council within 30 days of the issuance of this Order and must be addressed to Chairman, Water Council, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095. Filing an appeal of the Order will not automatically relieve you of your obligation to comply with the Order.

#### **G. OTHER PROVISIONS**

Please note that RSA 483-B:18 provides for civil and criminal penalties and administrative fines for the violations noted in this order, as well as or failing to comply with the

Order itself. DES will continue to monitor Randy and Caryl Parker's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.



Harry T. Stewart, P.E.  
Director, Water Division



George Dana Bisbee  
Assistant Commissioner

**CERTIFIED MAIL**

cc: Gretchen C. Rule, DES Legal Unit  
Tuftonboro Zoning Board of Adjustment  
Tuftonboro Town Administrator  
Public Information Officer, DES PIP Office

Carroll County of Registry of Deeds  
Jennifer Patterson, NHDOJ EPB  
Mary Ann Tilton, DES Wetlands Bureau  
Shoreland Program, Watershed Unit-NHDES